



JAN 22 2002

Reply to SP-02-10
Attn. of: CACFP-669
SFSP-441

Subject: Buy American Provision

To: State Agency Directors - Colorado ED, Colorado DPH,
(Special Nutrition Programs) Iowa, Kansas, Missouri ED,
Missouri DH, Montana
DPHHS, Montana OPI,
Nebraska, North Dakota,
South Dakota, Utah ED,
Wyoming ED

On January 9, 2002, our National Office sent State agencies (SAs) a policy memorandum entitled "Buy American Provision". We are issuing this memorandum from the Regional Office so as to be able to have a record, in our respective program memoranda series, of the issuance of this policy.

Section 104(d) of the William F. Goodling Child Nutrition Reauthorization Act of 1998 requires schools and institutions participating in the National School Lunch Program (NSLP) and School Breakfast Program (SBP) in the contiguous United States to purchase, to the maximum extent practicable, domestic commodities or products for use in meals served under the NSLP and SBP. The legislation defines "domestic commodity or product" as one that is produced in the United States and is processed in the United States substantially using agricultural commodities that are produced in the United States. The report accompanying the legislation stipulated that "substantially" means that over 51 percent of the final processed product consists of agricultural commodities that were grown domestically. Regulations implementing these requirements were published on September 20, 1999. Nevertheless, the domestic food industry continues to express concerns that program funds are being used to purchase foreign agricultural products. In response to this concern, report language accompanying the Agriculture Appropriations Act for Fiscal Year 2002 requires the Department to report to Congress on its activities directed toward enforcing the Buy American provision. Therefore, we are issuing this memo to reiterate the requirement of the "Buy American" provision of the law.

Given the importance that Congress attaches to the "Buy American" provision and the role this provision plays in helping to

stabilize the American agricultural economy, it is essential that local operators understand the need to ensure that all purchases of agricultural commodities and food products comply with this statutory provision. The provision should be included in bid specifications to ensure compliance. Local operators must also be aware that, as a result of explicit language also contained in the report noted above, this provision now applies to all funds in the food service account and not just to Federal reimbursement. Please ensure that all local operators are aware of their responsibilities in this respect.

If you have any questions concerning this policy, please let us know.

A handwritten signature in cursive script, reading "Brian Allison".

BRIAN ALLISON
Acting Regional Director
Special Nutrition Programs